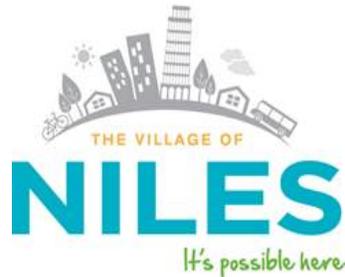


VILLAGE OF NILES

1000 Civic Center Drive
www.vniles.com



Final Approved Meeting Minutes

Monday, September 13, 2021

7:00 PM

Village Hall

Planning and Zoning Board

Chairman

Thomas Kanelos

Members

Susan DeBartolo

Morgan Dubiel , Vice Chairman

Ted Karabatsos

Janet Lee

Terrence McConville

Robert Schulter , Secretary

Charles Ostman , Community Development Director

CALL TO ORDER

The Niles Planning and Zoning Board was called to order at 7:00 P.M.

PLEDGE OF ALLEGIANCE/ROLL CALL

All rose for the Pledge of Allegiance.

PRESENT: 8 Chairman Thomas Kanelos, Commissioners
Ted Karabatsos, Susan DeBartolo, Robert Schulter,
Terrence McConville, Morgan Dubiel, Janet Lee

Also, present were Director of Community Development Charles Ostman,
Planner I Nathan Bruemmer and Village Attorney Danielle Grcic.

Chairman Kanelos stated before the meeting starts, he would like to take a moment to thank Commissioner Barbara Nakanishi for her years of service to the Planning and Zoning Board of Appeals. She has completed her term of service. He also welcomed Janet Lee, a new member to the Planning and Zoning Board of Appeals.

APPROVAL OF MINUTES

Chairman Kanelos asked if there were any additions, clarifications, or corrections to the minutes of August 16, 2021. There were some additions and corrections. They have been resolved and the minutes were corrected and approved.

Commissioner DeBartolo moved to **approve** the minutes of August 16, 2021.

Seconded by Commissioner Karabatsos on roll call the vote was:

AYES: 6 DeBartolo, Schulter, Lee, McConville,
Karabatsos, Kanelos

NAYS: 0

ABSTAIN: 1 Dubiel

There being six (6) affirmative votes the motion carried.

PUBLIC COMMENT

If the public has any general comments or questions, they can speak now. No one spoke up. In that case, the public can ask questions or comment after the Board has heard the petitioners' testimony following each case.

OLD BUSINESS

1. **21-ZP-34, 8415 Golf Rd**

A request for approval of a Special Use Permit to allow a 'Smoking Establishment' at 8415 Golf Rd., Niles, IL 60714 as required by Section 8.2(A) of the Niles Zoning Ordinance.

Chairman Kanelos said this case was heard and approved last month. The Board of Trustees asked this Board to take a closer look at it tonight. He asked Charles Ostman, Director of Community Development, if when reviewing something like this, do we have the petitioner offer more information or do we just question the petitioner.

Mr. Ostman referred the question to Village Attorney Danielle Grcic.

Ms. Grcic stated this matter was remanded from the Board of Trustees for further information and explanation. In this case, more for explanation. When we send this back to the Board of Trustees, there should be a more detailed outline of the Findings of Fact. Look at the four requirements for Special Use and say why you voted the way you did last month based on what was presented at the last meeting. If the applicant is here and there is further information, you can open up testimony and provide the applicant an opportunity to provide such. When this goes back to the Board of Trustees, we should have Findings of Fact that say we approved or denied this request based on 1,2,3 or 4, whatever.

Chairman Kanelos said there will be a new motion after we hear from the petitioner. Do we need a new presentation or do we start asking clarification questions?

Ms. Grcic said you do not have to ask for the same information again. You can just start asking questions.

Commissioner Dubiel said there is someone who has a public comment regarding this case.

Chairman Kanelos said public comment is listed here but we always take it after each case.

Katmerka Ramic, architect, IR Design Inc., 4468 N. Elston Ave., Chicago, IL 60630 and Bilal Ismael, Vice-President, Kazzaz Smoke Shop Niles Inc., 7307 W. Pensacola Ave., Norridge, IL came forward and were sworn in.

Chairman Kanelos asked if there were any questions from the Commissioners. There were none. He, however, did have some questions. He asked the petitioners to clarify why the proposed use is essential for the public convenience at the proposed location. Why is it necessary?

Mr. Ismael said the area is being developed. He is familiar with the Patel Brothers and has worked with them in the past. Everything they do is up to code always. They make sure they work well with the Village in any way possible.

Chairman Kanelos asked Mr. Ostman if there was another smoke shop across the street.

Mr. Ostman answered yes, there is.

Nathan Bruemmer stated there are currently two tobacco shops that have received Special Uses in Niles.

Mr. Ismael said he has visited the other stores in Niles and they do not carry the products his store will carry. They travel several times a year to put together American made products versus imported products that other stores in this area carry.

Chairman Kanelos asked what can people buy at this store that they cannot buy at another store in the area?

Mr. Ismael said what they carry is handmade in the United States. The fact their products are American based is unique. They have clothing and hand made art. It is a combination of things with smoke products. It is a lifestyle. We make sure our products are made in clean labs, etc. They guarantee their products to be safer for the consumer. Yes, a lot of products are the same but what makes ours stand out is most are made in the States. They have quality control where the other stores do not have that. Some get product from other countries where there is no regulation.

Ms. Ramic asked if the drawings can be shown on the overhead.

Commissioner Karabatsos said you tell us that your products are US made but what is actually different than the business across the street. Do you have any specialty things that the guy down the street does not?

Ms. Ramic asked if they could zoom in on the back area. The bottom left image is a shisha bar. It is an herbal bar where you can go in and pick your shisha. It is high end compared to other smoke shops around the neighborhoods. She has been an architect at several shops in Chicago and this is very high end. They have worked on the business the past couple of years focusing on detail which you can see in comparison to other smoke shops. They want to provide good product and great service which is why they have clientele from far away visiting them. That would benefit Niles as well as with people visiting other businesses in the area.

Chairman Kanelos asked for an example of something that is regulated in this store that is not regulated in any other store.

Mr. Ismael said they do not sell cigarettes in their shops. They do sell vaping products. It is the juice people consume - nicotine - and they are all made in clean labs.

Chairman Kanelos asked how does he know the other stores do not sell faulty products.

Mr. Ismael said before they open a store they walk into other locations in the area. We look at the products they are selling.

Chairman Kanelos asked if he had anything to back up what he is saying. You know, like a product you sell and a product someone else sells. How do you know one is safer than the other?

Ms. Ramic said another difference is this company [Kazzaz] sells product online. The others do not.

Mr. Ismael said that helps with the revenue and would bring more money into Niles.

Commissioner Lee asked for an explanation of a shisha bar. What happens to a person when they get shisha?

Mr. Ismael said it is a tobacco. It is like a cigar. It is smoked out of a pipe. He did not see any other stores in the area that cater to that.

Ms. Ramic said it is a natural product and usually mixed with fruit or some other additive. This shisha is more organic than that sold at other locations. Mr. Ismael has a staff that goes through these products for quality control and makes sure the quality is high end. It is a healthier alternative than smoking cigarettes. Chairman Kanelos said let's face it, anything you inhale into your body is not necessarily healthy. That is why we are trying to get to the point if it is for the health, safety and welfare of the Village.

Commissioner Dubiel said you have three other locations, correct?

Mr. Ismael said this will be the fourth in Illinois. They have seven in Florida and working on the third in New Jersey. He said they go to a lot of venues and set up booths. They have a staff that does the set up. This has been about ten years in the making for them. They have a large audience at conventions. When the conventions are over, they come and visit our shops.

Ms. Ramic said it is all ages as well.

Commissioner Dubiel it is obvious you have some unique clothing brands and art but other than that it is similar to what other stores sell. He wants to concentrate on this question: Is the proposed Special Use deemed necessary for the public convenience at the proposed location? He understands this as a commissioner, but is this really necessary? There are two other shops, both on Golf Road literally within blocks of where your location would be. It seems to me the public is already being served here in this particular geographic location. He wonders why they are set on this particular location.

Mr. Ismael said he used to deliver produce to the Patel Brothers. He ran into Brian, one of the store managers. He was please to see all the activity in the area of that intersection. As far as the stores across the street, the volume is there. At their Florida locations they actually have four within two miles of each other. They are all doing very well. It is like with restaurants. There are probably twenty restaurants in a certain area and they all do well.

Commissioner Dubiel said he likes their products and the layout is appealing. He just feels it is too concentrated in that particular area. Within two miles, do you get what I am getting at?

Ms. Ramic said they looked at the demographics of their current clients. People come from Niles and Skokie and many are still coming to the closest Kazzaz location which is in Norridge even though there are other smoke shops near them.

Mr. Ismael said there is one at Harlem and Touhy as well [Chicago]. They have a loyalty program and through their data base know their clients' preferences. We see more and more people coming from this area. That is why when he spoke with Brian, they decided they want to come to this area. They like the building as well as the traffic.

Commissioner Dubiel said he understands all that. And he would like them to come to Niles but not at this particular location.

Commissioner DeBartolo asked what states does the shisha come from. Where are the factories?

Mr. Ismael said the majority comes from California. Some comes from Arizona. The companies that do manufacture out of the country have facilities in the United States.

Commissioner DeBartolo asked about his answer to a question in the application. The question is: Will the proposed Special Use endanger the public health, safety and welfare? Your answer is: In my professional opinion and experience, the proposed Special Use will not endanger the public health, safety and welfare. Can you explain that answer in more detail? We are told by the CDC that nicotine products are not healthy, they can cause cancer.

Mr. Ismael said the nicotine products they carry - that goes back to the issue of quality control. We do not carry those products from China.

Commissioner DeBartolo asked if there is a difference between nicotine products from China and those from the US. Do they affect you in a different way?

Mr. Ismael said yes.

Ms. Ramic wants to mention they also offer natural FDA approved herbal supplements and lotions that other smoke shops do not.

Chairman Kanelos asked if there were any more questions from the Commissioners. There were none. There were no questions from the public. He entertained a motion.

Commissioner Dubiel made a motion to **approve** item 21-ZP-34, a request for approval of a Special Use Permit to allow a 'Smoking Establishment' at 8415 Golf Rd., Niles, IL 60714 as required by Section 8.2(A) of the Niles Zoning Ordinance.

Seconded by Commissioner McConville.

Chairman Kanelos said now we have discussion from the Commissioners regarding Findings of Fact.

Commissioner Dubiel said he believes there are already two smoking establishments here and this particular application, while he would like it to come to Niles, it does not meet the requirement for the Special Use permit of: Is the proposed Special Use deemed necessary for the public convenience at the proposed location? He will vote against the motion.

Commissioner Karabatsos said he feels the same as what Commissioner Dubiel said. There are already a couple of smoke shops in the area and it is not deemed necessary.

Commissioner DeBartolo feels they are already putting some danger on the streets and there are two smoke shops in the area. She does not think shisha coming from the United States is reason enough to put a third one on the same street.

Commissioner McConville said in his opinion this seems to be a more high-end establishment than others he has seen. It also seems they have a varied range of products than other smoke shops. Even though there are some questions as to the public safety and welfare, the products they sell are all legal and are allowed to be sold.

Commissioner Schulter said he believes it is too congested in that area to have an additional shop.

Chairman Kanelos feels in his opinion it does not meet the criteria that it is necessary at that location.

On roll call the vote was:

AYES: 1 McConville

NAYS: 5 Dubiel, Karabatsos, DeBartolo, Schulter, Kanelos

ABSTAIN: 1 Lee

There being five (5) negative votes the motion failed.

Chairman Kanelos stated this Board is a recommending Board to the Board of Trustees who can either confirm or deny this recommendation. It will be necessary for the petitioner to contact Mr. Ostman and ask to be placed on the Board of Trustees agenda. The petitioner will then be notified of the date and anyone in the audience who would like to be informed of the Board of Trustees date should leave their name and address with the recording secretary.

NEW BUSINESS

1. **21-ZP-33, 8000 Odell Ave**

A request for a Variation from Section 9.4, Table 9-1 of the Niles Zoning Ordinance to allow a Pergola to encroach 11' into the required front yard setback at 8000 Odell Ave, Niles, IL 60714.

Stephanie Chan and Alvin Varghese, petitioners, 8000 Odell, Niles, IL 60714 came to the podium and were sworn in.

Ms. Chan wanted to reiterate this Board consider the fact the address is on Odell but the side yard is on Oakton. Everything else is as stated in the documents.

Chairman Kanelos said he cannot take the letters they included because they are not notarized nor are the people here to be sworn in. But it is good there is no opposition in the neighborhood.

Ms. Chan said there are some neighbors present tonight.

Commissioner Lee asked since the pergola will be on Oakton, there would have to be some maintenance, correct?

Chairman Kanelos asked Mr. Ostman if that would be a code enforcement issue.

Mr. Ostman answer yes.

Commissioner Dubiel wanted to compliment the petitioners for putting together a nice packet. He liked how she pointed out this ordinance offers no flexibility resulting in a hardship. In review, it seems she has answered all three of the required questions. He had a question for Chairman Kanelos. For him, the packet is complete and does not need additional testimony, even if they ignore the letters.

Chairman Kanelos asked if there were more questions from the Commissioners. There were none. He asked if there were questions for Staff. He then asked if this was already built.

Mr. Bruemmer answered was yes, it is built and in front for a little while. Then some property maintenance people saw it and told the petitioners they cannot have it there. He believes right now it is temporarily in the back of the property.

Ms. Chan said it has been moved to the left of the garage, north on Odell. Her backyard is 5 ft. behind the house. They were told the other side of the garage is also a side yard so that is where the pergola is placed now. [The location of the pergola is being shown on the overhead].

Mr. Bruemmer said this would be the backyard according to the Zoning Code. It is 8 ft. back there.

Commissioner Schuller said the pictures in the packet show where you want this pergola located, correct?

Ms. Chan said yes.

Chairman Kanelos asked if there were more questions. There were none. He then asked if there were comments.

Annette Kennedy, 7308 N Nora, Niles, IL came forward and was sworn in. She saw this when it was first placed and then saw it was moved. She asked why because it really made the property look great. It does not obstruct anything and she has no problem with it. She drives on Oakton all the time. Anybody who tried to beautify their property in Niles by adding something to it, I am in agreement.

Julie Finan, 7340 Oakton, Niles, IL came to the podium and was sworn in. She lives next door. She likes it and sees no problem with it.

Chairman Kanelos said it appears all the neighbors think this should be allowed. Are there any more questions for the petitioners or Staff? Any questions from the public? There were none. At this time, he entertained a motion.

Commissioner Dubiel moved to **approve** item 21-ZP-33, a request for a Variation from Section 9.4, Table 9-1 of the Niles Zoning Ordinance to allow a Pergola to encroach 11' into the required front yard setback at 8000 Odell Ave, Niles, IL 60714. The petitioners packet as well as the testimony has met the requirements for Variations and Findings of Fact for Zoning Ordinance Appendix B, Section 15.4(D) and Subsection (E) and three standards there.

Seconded by Commissioner McConville.

Commissioner DeBartolo said while she agrees with the neighbors and everything looks nice, she feels this could start a precedence where people can put things where they do not belong according to the Zoning Code. Commissioner McConville said as a fellow owner of a corner lot in the Village of Niles, those lots are often difficult and treated unfairly under the present Zoning Code. There is little relief allowed for owners of corner lots. He has an address on one street but the house faces another street. He feels the Zoning Code needs to be updated to address some of these issues.

Commissioner Schuler said he agrees with Commissioner McConville and would also like to state since none of the neighbors have a problem with the pergola and actually admire it, it is a good place to put it.

Commissioner Karabatsos said he agrees it should be allowed. The plight of the owners is that it is a corner lot. That is an issue.

Commissioner Lee agrees that the issue is that this is a corner lot. It is not just because they want to put an item up and cannot do so in the backyard.

Chairman Kanelos said he feels they should approve this with the Findings of Fact that a strict application of the rules would make it a hardship because it would be impossible to put that kind of improvement in any yard that is practical in any way. He is convinced it will not alter the essential character of the neighborhood and that the testimony of several neighbors backs that up. That is the second criteria. He believes this is a unique situation unique to corner lots. It has not been created by the petitioner in any way. He speaks in favor of motion.

On roll call the vote was:

AYES: 6 Dubiel, Karabatsos, Schuler,
Lee, McConville, Kanelos

NAYS: 1 DeBartolo

There being six (6) affirmative votes the motion carried.

The Board has the final say on this item.

2. 21-ZP-37, 7750 Octavia Ave

A request for a Variation from Section 10.3(C)(4)(a) to allow a driveway that does not terminate at a garage at 7750 Octavia Ave, Niles, IL 60714

George Gubarev, 7750 N. Octavia Ave, Niles, IL came to podium and was sworn in. He had nothing else to add.

Commissioner Dubiel said you understand we have criteria here to clarify. He said his packet is complete. He was legally and lawfully coming to get a permit to fix the property, correct? The driveway was this way when you bought the property, correct? You came in to repair and replace this driveway. Then you got caught up in this Zoning situation.

Mr. Gubarev answered yes to all Commissioner Dubiel's questions. He said he has been trying to get this corrected for three years.

Commissioner Lee said she sees in the pictures [included in the packet] there is a back patio. Does the driveway flow into that patio?

Chairman Kanelos then went over what is being shown on the overhead. The driveway is here and stops there. Then the patio starts here. Mr. Gubarev is proposing to replace all the pink highlighted area [existing concrete]. The only thing that is new is the yellow highlighted area. Is it safe to say it is not impacting the impervious lot coverage where it would be out of code?

Mr. Bruemmer said correct.

Chairman Kanelos asked if there were any other questions. There were none from the public.

Commissioner Schuller asked if the grass area is where the yellow is. He asked if he is putting concrete there. [This is all being shown on the overhead]. The concrete will stop there, correct?

Mr. Gubarev answer yes.

Commissioner DeBartolo said she is curious as to why this took three years.

Mr. Gubarev said it was believed he did not need a Variance to replace the cement.

Chairman Kanelos entertained a motion.

Commissioner Dubiel moved to **approve** case 21-ZP-37, a request for a Variation from Section 10.3(C)(4)(a) to allow a driveway that does not terminate at a garage at 7750 Octavia Ave, Niles, IL 60714. The packet, testimony and questions answered by the petitioner have shown the requirements for Variations and Findings of Fact have been met. The strict application of this ordinance will result in undue hardship. If the Variation is granted it will not alter the essential character of the locality. The plight of the owner is due to unique circumstances inherent to the subject property.

Seconded by Commissioner DeBartolo.

Commissioner Dubiel said the packet is complete.

Commissioner Karabatsos agrees with Commissioner Dubiel's explanation. It is a trip hazard; concrete is falling apart.

Commissioner DeBartolo agreed. He is not violating anything.

On roll call the vote was:

AYES: 7 Dubiel, Karabatsos, DeBartolo, Schulter,
Lee, McConville, Kanelos

NAYS: 0

There being seven (7) affirmative votes the motion carried.

The Board is the final say on this case.

DISCUSSIONS

None

ADJOURNMENT

Chairman Kanelos entertained a motion to adjourn.

Commissioner DeBartolo moved to adjourn.

Seconded by Commissioner Lee, on roll call the vote was:

AYES: 7 DeBartolo, Schulter, Lee, McConville,
Dubiel, Karabatsos, Kanelos

NAYS: 0

There being seven (7) affirmative votes the motion carried.

The meeting adjourned at 7:55 PM

Kathleen Janessa, Recording Secretary